

ORDINANCE NO. 2003-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING ARTICLE II, SECTION 10-32, OF CHAPTER 10 OF THE CODE OF LAWS OF LEON COUNTY FLORIDA, RELATING TO THE DUTIES AND RESPONSIBILITIES OF THE LOCAL PLANNING AGENCY; AMENDING ARTICLE XI, DIVISION 9, OF CHAPTER 10 OF THE CODE OF LAWS OF LEON COUNTY, RELATING TO FORMAL PROCEEDINGS BEFORE THE PLANNING COMMISSION; AMENDING SECTION 10-1621, DEFINITIONS; AMENDING SECTION 10-1622, QUASI-JUDICIAL PROCEEDINGS; AMENDING SECTION 10-1624, NATURE OF PROCEEDINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, THAT:

Section 1. Article II, Section 10-32, of Chapter 10 of the Code of Laws of Leon County, Florida, is hereby amended to read as follows:

Sec. 10-32. Duties and responsibilities.

(a) The local planning agency created pursuant to this article, in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act [F.S. § 163.3161 et seq.], shall:

- (1) **Monitor and recommend.** Monitor and oversee the effectiveness and status of the Tallahassee-Leon County 2010 Comprehensive Plan and recommend to the Board of County Commissioners such changes in the comprehensive plan as may be required from time to time, including preparation of the periodic reports required by F.S. § 163.3191.

- (2) Coordination with governmental entities. Coordinate the comprehensive plan of the City of Tallahassee and Leon County with the plans of other governmental entities, to include the school board, other units of government providing service but not having regulatory authority over the use of land, and adjacent counties.
- (3) Level of service standards. Ensure coordination in establishing level of service standards for public facilities with any other entities having operational and maintenance responsibilities for such facilities.
- (4) Planning coordination. Provide regular opportunities for other entities to present their plans to the agency, and for the agency to communicate its plans to the other entities for the purpose of planning coordination.
- (5) Resolving conflict. Serve as a recommending body to the City and County Commissions in resolving conflicts between the plans of the other entities with those of the City and the County.
- (6) Mediation. Periodically coordinate with adjacent local planning agencies on issues of mutual interest, and serve as a mediating body where conflicts exist.
- (7) Target issues. Serve as a means to monitor and evaluate plan implementation, utilize a target issues process to track dates and actions as shown in the plan.
- (8) Permitting process. Serve as the coordination and monitoring mechanism to ensure the coordination of the permitting process in order to protect

natural resource features through the appropriate location and intensity of development.

(9)(2) General duties. Perform any other functions, duties, and responsibilities assigned to it by the Board of County Commissioners or by general or special law.

(b) All meetings of the local planning agency shall be public meetings, and agency records shall be public records.

(c) The chair of the Tallahassee-Leon County Planning Commission ~~director of the planning department~~ shall serve as the chair of the local planning agency, and the planning department shall provide the local planning agency with staff assistance and support.

Section 2. Article XI, Division 9, of Chapter 10 of the Code of Laws of Leon County, Florida, is hereby amended to read as follows:

DIVISION 9. FORMAL PROCEEDINGS

Sec. 10-1621. Applicability.

Division 9 shall govern all quasi-judicial proceedings before the planning commission. For purposes of review/appeals to the planning commission under this Division 9, the following definitions shall apply:

- (a) *Days* as used in this division means calendar days unless otherwise stated.
- (b) *De novo proceeding* means a quasi-judicial proceeding wherein the parties submit testimony and evidence in support of their positions and the planning commission evaluates the issues raised in petition as if they were being reviewed for the first time.
- (c) *Ex parte communication* means an oral or written communication made to a member of the planning commission on a matter to come before the planning commission by, or

on behalf of, a party as defined in this section, or otherwise, about the merits of a matter before the planning commission, or foreseeably anticipated to come before the commission, outside of a planning commission meeting and without notice to the parties.

(d) *Party* means the applicant, the county, or any person who can demonstrate that they will suffer an adverse effect to an interest protected or furthered by the comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, or environmental or natural resources. The alleged adverse interests may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons.

(e) *Quasi-judicial proceeding* means a proceeding that results in a decision having an impact on a limited number of persons or property owners, on identifiable parties and interests, where the decision is contingent on a fact or facts arrived at from distinct alternatives presented at a hearing, and where the decision can be viewed as policy application rather than setting policy.

(f) *Rendered* means the date of the action when a decision is made by an entity with authority to approve the development application as evidenced by the entity's dated decision executed by its chair. In the case of an order of the planning commission, the order shall be rendered when it is date stamped by the clerk of the planning commission.

Sec. 10-1622. Decisions subject to quasi-judicial proceedings; notice required.

(a) The planning commission, when it is taking actions that involve the application of a general rule or policy as set forth in the Code of Laws of Leon County, shall conduct quasi-judicial proceedings in accordance with Article IX of the Bylaws of the Tallahassee-Leon

County Planning Commission unless such formal proceedings are waived by all parties as provided in Article XIV of the bylaws.

(b) Quasi-judicial proceedings shall include, but are not necessarily limited to: Appeals of decisions on certificates of exemption in connection with a governmental right-of-way taking; interpretation of district boundaries with respect to the official zoning map; action by the planning commission on Type D site and development plan review; Developments of Regional Impact; Florida Quality Developments, planned unit developments and rezonings.

(c) The planning commission shall conduct quasi-judicial proceedings when a party as defined in this section has initiated formal proceedings under the Bylaws of the Tallahassee-Leon County Planning Commission following a decision of the county administrator or designee or the growth and environmental management director or designee on certificates of exemption in connection with a governmental right-of-way taking; interpretation of district boundaries with respect to the official zoning map, Type D site and development plan review; Developments of Regional Impact, Florida Quality Developments, planned unit developments and rezonings. Decisions of the county administrator or designee or the growth and environmental management director shall become final 15 calendar days after they are rendered unless a party files a petition for formal proceedings together with the filing fee in accordance with the planning commission bylaws. Failure to file the petition within the time specified herein will result in waiver of the right to formal proceedings. The clerk of the planning commission will dismiss any late filed petition. Time periods provided by the Leon County Code of Laws may not be extended by the planning commission. Notice of the DRC's recommendation to the planning commission shall be published in a newspaper of general circulation at least 15 days before the scheduled action by the planning commission.

(d) To initiate quasi-judicial proceedings where the planning commission will make a recommendation to the Board of County Commissioners a petition for formal proceedings together with an appropriate filing fee must be filed within 15 calendar days of publication of notice of the planning commission public hearing on the application in a newspaper of general circulation. Whenever the Code requires notice of proceedings before the planning commission to be published in a newspaper of general circulation, unless stated otherwise in the ordinance, such notice shall be published no later than 30 calendar days before the formal, quasi-judicial public hearing. The notice shall include the subject matter of the proceeding; the date, time, and place of the hearing; and general information about citizen participation and the requirements for status as a party. The notice shall also include the name, address, and telephone number of a county representative who can provide additional information about the proceeding and about the requirements for party status.

(e) The planning commission will render a final decision on a recommended order from the administrative law judge on an appeal of a determination of the county administrator or designee on a certificate of exemption in connection with a governmental right-of-way taking and an interpretation of district boundaries with respect to the official zoning map.

(f) The planning commission will render a recommendation to the Board of County Commissioners on a recommended order from the administrative law judge on a Type D site and development plan review, Developments of Regional Impact, Florida Quality Developments, planned unit developments and rezonings.

(g) The administrative law judge shall follow the procedures set forth the planning commission bylaws for discovery, conduct of the hearing and post-hearing procedures. ~~outlined for hearing officers in accordance with section 10-1485, Leon County Code of Laws, except that,~~

~~in cases where the final decision or recommendation to the Board of County Commissioners is to be made by the planning commission, the administrative law judge shall render a recommended order instead of a final order.~~

Sec. 10-1623. Standing to initiate.

Quasi-judicial proceedings may be initiated only by the applicant, the county, or by persons who will suffer an adverse effect to an interest protected or furthered by the comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, or environmental or natural resources. The alleged adverse interests may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons. Petitions for formal quasi-judicial proceedings shall be filed in accordance with the planning commission's bylaws. The planning commission attorney shall, within five days of the date a petition for formal proceedings is filed, determine whether the person or entity filing the petition has alleged sufficient facts (to be proved at final hearing) to establish entitlement to formal proceedings ("standing"). If the planning commission attorney determines that the petition does not allege standing, then the planning commission attorney shall dismiss the petition. Appeal of a denial of standing and dismissal of a petition may be made within 30 days of the date it is rendered by a writ of certiorari to the circuit court.

Sec. 10-1624. Nature of proceedings.

A. All quasi-judicial proceedings shall be de novo proceedings. Unless all parties waive formal proceedings, the parties will be given an opportunity to present testimony and evidence, to cross examine witnesses, and to present proposed findings of fact.

B. No ex parte communication shall be permitted during the pendency of a quasi-judicial matter before the planning commission or an administrative law judge.

C. A motion to dismiss a petition may be filed within five calendar days after the petition is filed. Motions to dismiss will be heard by the administrative law judge assigned to preside over the quasi-judicial ~~formal~~ proceedings.

Sec. 10-1625. Decisions of the planning commission.

A. All planning commission decisions shall be based upon competent substantial evidence in the record.

B. All evidence must be presented to the planning commission in accordance with the bylaws.

C. The planning commission shall render an order or a recommendation to the Board of County Commissioners, as appropriate, in all quasi-judicial proceedings that shall be promptly filed in the office of the clerk of the planning commission with copies thereof delivered to all parties.

Section 3. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan as amended, which provisions shall prevail over any part of this ordinance which is inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 4. Severability. If any word, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Effective date. This ordinance shall have effect upon becoming law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon
County, Florida, this _____ day of _____, 2003.

LEON COUNTY, FLORIDA

By: _____
Jane G. Sauls, Chairman
Board of County Commissioners

ATTESTED BY:
BOB INZER, CLERK OF THE COURT

By: _____
CLERK

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

By: _____
HERBERT W.A. THIELE
COUNTY ATTORNEY